DRAFT Comment Summary and Responses
Comment Deadline: May 4, 2020
An Amendment to the Water Quality Control Plan for the Los Angeles Region (Basin Plan) to Update the Bacteria Water Quality Objectives for Fresh, Estuarine, and Marine Waters Designated for Water Contact Recreation – based on the Statewide Bacteria Provisions

List of Commenters:

Comment Reference	Organization	Representative
1	The City of San Buenaventura's Water and Wastewater Department, Ventura Water (Ventura Water)	Vincent Innes

Response to Comments:

No.	Author	Comment	Response
1.1	Ventura Water	The City of San Buenaventura's Water and Wastewater Department, Ventura Water (Ventura Water), supports revision of the Basin Plan to make the water quality objectives for pathogen indicator bacteria consistent with the statewide standards adopted by the State Water Board in August of 2018. The City also recommends that the State Board consider adding some minor clarifications to the Adoption Resolution that will help avoid confusion as the new objectives are being implemented in NPDES permits. Ventura Water operates a state-of-the-art wastewater treatment plant that discharges high quality effluent to the Santa Clara River Estuary (SCRE). The tertiary treatment process includes rigorous coagulation, flocculation, filtration and disinfection steps designed to ensure the effluent complies with the stringent requirements of Title-22 specified in the NPDES permit.	Comment noted. In addition, this comment is untimely. The State Water Board's Notice of Opportunity to Comment concerning this Basin Plan amendment accurately informs interested persons of the procedural requirements used to implement the State Water Board's regulatory programs. According to 23 Cal. Code Regs. § 3779, subd. (f): The state board, when considering approval of a regional board's adoption of an amendment to its water quality control plan or guideline, shall prescribe a comment period of not less than 30 days. The state board may refuse to accept any comments received after the noticed deadline. All comments submitted to the state board must be specifically related to the final amendment adopted by the regional board. If the regional board previously responded to the comment, the commenter must explain why it believes that the regional board's response was inadequate. The commenter must include either a statement that each of the comments was timely raised

			before the regional board, or an explanation of why the commenter was unable to raise the specific comment before the regional board. The state board may refuse to accept any comments that do not comply with this section. Here, the issues in the comment letter were not raised in a timely manner to the California Regional Water Quality Control Board, Los Angeles Region (Los Angeles Water Board) and the commenter has not explained why the commenter was unable to raise the specific comment before the Los Angeles Water Board. The "minor clarifications" mentioned herein are addressed in response to comment 1.3, below.
1.2	Ventura Water	At present, the NPDES permit includes numeric effluent limitations for three different pathogen indicator bacteria: Total coliform, Fecal coliform and Enterococcus. During the recent permit reauthorization process, Ventura Water noted these limits are somewhat redundant because they are all intended to do the same thing… assure the effluent is adequately disinfected. Ventura Water suggested that only the more stringent Total coliform limit be retained and the Fecal coliform and Enterococcus limits be safely removed from the permit. Regional Board staff declined to make the requested change and stated that they were legally obligated to include separate effluent limits for Enterococcus and Fecal coliform in order to implement the wasteload allocations specified by the Santa Clara River Bacteria TMDL adopted in	This comment has no bearing on the proposed amendment. The Los Angeles Water Board Basin Plan Amendment updates the Los Angeles Water Board's REC-1 bacteria water quality objectives to reflect and implement the bacteria water quality objectives in the State Water Board's Statewide Bacteria Provisions, and it does not include language directing the manner of implementation of the water quality objectives in National Pollutant Discharge Elimination System (NPDES) permits. The issue raised by the commenter, which focuses on the implementation and translation of the bacteria water quality objectives into its own (and presumably, others') NPDES permit, is outside the scope of this project. Issues relating to suitability of effluent limitations is the purview of the Los Angeles Water Board's NPDES program, and the NPDES permitting

		2010. Adoption of the proposed Basin Plan amendment, offers an opportunity to correct this unintended misunderstanding when and where it is appropriate to do so.	staff will implement the bacteria water quality objectives in the Basin Plan Amendment accordingly. In this regard, the Los Angeles Water Board notes that, while the Los Angeles Water Board Basin Plan Amendment language is silent on NPDES permitting implementation, there is implementation language in the statewide Bacteria Provisions that the Los Angeles Water Board is bound to follow. For example, on pages 4 and 5, the statewide Bacteria Provisions state: **"However, where a permit, WDR, or waiver of WDR includes an effluent limitation or discharge requirement derived from a water quality objective, guideline, or other requirement to control bacteria that is a more stringent value than the applicable BACTERIA WATER QUALITY OBJECTIVE, the BACTERIA WATER QUALITY OBJECTIVE shall not be implemented in the permit, WDR, or waiver of WDR."** Finally, to the extent this comment implies that Ventura Water brought this comment to the Los Angeles Water Board's attention during the adoption of the proposed Basin Plan Amendment, this is not accurate. This comment was made on a tentative NPDES permit renewal unrelated to the proposed Basin Plan amendment. This comment was not timely made to the Los Angeles Water Board. This, together with the fact that the comment here is outside the scope of the proposed Basin Plan Amendment, is why the State Water

			Board declines to make any revision to the Adoption Resolution.
1.3	Ventura Water	When the State Board approved the statewide bacteria objectives in 2018, they made special provision for TMDLs adopted prior to March 22, 2019. Therefore, in order to ensure that the new objectives and existing TMDL requirements are implemented in a well-coordinated way, Ventura Water respectfully requests that the State Board add the following clarification language to the Adoption Resolution for the proposed Basin Plan amendment: "For discharges to waterbodies where multiple water quality objectives and/or wasteload allocations for pathogen indicator objectives have been established, the Regional Board retains the discretionary authority to impose separate effluent limits for each individual bacterial parameter (e.g. Total coliform, Fecal coliform, Enterococcus or E. coli) or to impose only the most stringent effluent limit for a single pathogen indicator bacteria where doing so would provide functionally-equivalent protection to beneficial uses." This approach does not constitute a substantive change to the Basin Plan because it merely acknowledges the Regional Board's existing legal authority. The suggested text simply clarifies that neither the 304(a) criteria, nor the statewide bacteria objectives, nor the existing TMDLs are intended to be read in a manner that limits the	The purpose of the Basin Plan amendment under consideration is to update the REC-1 bacteria objectives to reflect those contained in the Statewide Bacteria Provisions. Any clarifications outside of the language or intent of the Statewide Provisions, such as those suggested by the commenter, are outside the scope of this project. No revision to the Adoption Resolution has been made. Also, see response to comment nos. 1.1 and 1.2.

		Regional Board's regulatory discretion with respect to deriving appropriate effluent limits to implement these water quality standards.	
1.4		Ventura Water strongly believes that compliance with the more stringent effluent limit for Total coliform is sufficient to assure and demonstrate compliance with the less stringent limits for other pathogen indicator bacteria. This is especially true for Fecal coliform and E. coli because they are both subsets of Total coliform (see Fig. 1). By definition, the concentration of E. coli cannot be greater than the concentration of Fecal coliform bacteria and the concentration of Fecal coliform bacteria cannot be greater than the concentration of Total coliform bacteria. Therefore, if the concentration of Total coliform is <2 mpn/100 mL then the concentration of Fecal coliform and E. coli must also be in compliance with applicable objectives (<200 mpn/100 mL and <100 mpn/100 mL, respectively).	See response to comments nos. 1.2 and 1.1.
1.5	Ventura Water	It is important to recognize that all of these different bacterial parameters are pathogen "indicators" not pathogenic per-se. Although Enterococcus is not a subset of Coliform bacteria, state law deems tertiary -treated effluent to be "adequately disinfected" and safe for human exposure if it meets the Total coliform limits and other requirements specified in Title-22.6 The Regional Board should preserve its existing authority to find that compliance with the most stringent bacterial standard for Total coliform can also constitute functionally-equivalent compliance with less stringent objectives for other pathogen indicator	See response to comments nos. 1.2 and 01.1.

		bacteria such as Fecal coliform, E. coli and Enterococcus.	
1.6	Ventura Water	The State Board has previously endorsed the option to impose only the most stringent effluent limit where multiple objectives (e.g. marine vs. freshwater or acute vs. chronic) apply. EPA guidance also states that, although there are separate 304(a) water quality criteria for Enterococcus and E. coli, relying on just one of these pathogen indicator bacteria is sufficient to fully protect public health. Thus, there is no mandatory obligation to impose overlapping and redundant waste discharge requirements, that are intended to achieve the same end, provided that the permit includes an effluent limit designed to meet the most stringent of these conditions. Ventura Water urges the State Board to reaffirm its long-standing support for this permitting principle by adding the suggested clarifying text to the Adoption Resolution. Doing so will help reduce unnecessary laboratory expense and administrative burdens on NPDES permittees without compromising water quality. By way of example, relying on the single most stringent pathogen indicator bacteria to demonstrate compliance with all other relevant bacteria-related objectives would reduce Ventura Water's analytical costs by $125,000 during the term of the permit while continuing to protect public health and the environment.	The commenter refers to language in the State Board's Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California Policy, which directs regional board's to "Determine the lowest (most stringent) water quality criterion or objective for the pollutant applicable to the receiving water" in establishing permit limits. In the case of the bacteria objectives, there are different indicators each with a single objective. That notwithstanding, such considerations are to be made by the Los Angeles Water Board during development of NPDES permits and are therefore outside the scope of this project, which only seeks to update the Los Angeles Water Board bacteria water quality objectives consistently with the Statewide bacteria objectives. Also, regarding reference to EPA's guidance on use of a single pathogen indicator, this approach is not provided in the Statewide Bacteria Provisions and therefore not reflected in the Basin Plan amendment. See response to comment nos. 1.1 and 1.2.